

development and use of e-commerce in the ASEAN region;
and

RECOGNISING the need to facilitate cross-border e-commerce transactions in the ASEAN region to maximise the benefits of regional economic integration,

HAVE AGREED AS FOLLOWS:

**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement:

- (a) **ATISA** means the *ASEAN Trade in Services Agreement*;
- (b) **Computing facilities** means computer servers and storage devices for processing or storing information for commercial use;
- (c) **Electronic authentication** means the process of testing an electronic statement or claim in order to establish a level of confidence in the reliability of that statement or claim;
- (d) **Electronic signature** has for each Member State the meaning set out in its laws and regulations;
- (e) **GATS** means the *General Agreement on Trade in Services*;
- (f) **Juridical person** means any legal entity duly constituted or otherwise organised under applicable law of a Member State, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation,

东盟地区电子商务的发展与使用; 以及

认识到有必要促进东盟地区的跨境电子商务交易, 以最大化区域经济一体化的效益,

达成协议如下:

第一条 定义

为本协定之目的:

- (a) 东盟服务贸易协定 (ATISA) 指《东盟服务贸易协定》;
- (b) 计算设施指用于商业用途处理或存储信息的计算机服务器和存储设备;
- (c) 电子认证指测试电子声明或主张以确立对该声明或主张可靠性信任水平的过程;
- (d) 电子签名在各成员国法律法规定义下具有相应含义;
- (e) 服务贸易总协定 (GATS) 指《服务贸易总协定》;
- (f) 法人指根据成员国适用法律正式组建或以其他方式组织的任何法律实体, 无论是否以营利为目的, 也无论私有或国有, 包括任何公司、

trust, partnership, joint venture, sole proprietorship or association;

(g) **Juridical person of another Member State** means a juridical person which is either:

- (i) constituted or otherwise organised under the law of that other Member State, and is engaged in substantive business operations in the territory of that Member State or any other Member State; or
- (ii) in the case of the supply of a service through commercial presence, owned or controlled by:
 - (1) natural persons of that Member State; or
 - (2) juridical persons of that other Member State identified under subparagraph (i);

(h) A juridical person is:

- (i) **owned** by persons of a Member State if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Member State;
- (ii) **controlled** by persons of a Member State if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
- (iii) **affiliated** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

信托、合伙、合资企业、独资企业或协会；

(g) 另一成员国法人指符合以下任一条件的法人：

- (i) 根据该另一成员国法律组建或以其他方式组织，并在该成员国或任何其他成员国境内从事实质性业务运营；或 (ii) 在通过商业存在提供服务的情况下，由以下主体拥有或控制：(1) 该成员国的自然人；或 (2) 根据第 (i) 项确定的该另一成员国法人；

(h) 法人是指：

- (i) 由一成员国人员拥有，如其50%以上的股权权益由该成员国人员实益拥有；(ii) 由一成员国人员控制，如该等人员有权任命其多数董事或以其他方式合法指导其行动；(iii) 与另一人员附属，当其控制该另一人员或被该另一人员控制时；或当其与该另一人员均被同一人员控制时；

- (i) **Natural person of another Member State** means a natural person who under the law of that Member State:
- (i) is a national or citizen of that Member State; or
 - (ii) has the right of permanent residence in that Member State, where both that Member State and the Member State in which the person supplies services recognise permanent residents and accord substantially the same treatment to their respective permanent residents as they accord to their respective nationals in respect of measures affecting trade in services;
- (j) **Personal information** means any information, including data, about an identified or identifiable individual; and
- (k) **Trade administration documents** means forms issued or controlled by a Member State which must be completed by or for an importer or exporter in relation to the import or export of goods.

ARTICLE 2 OBJECTIVES

The objectives of this Agreement are to:

- (a) facilitate cross-border e-commerce transactions in the ASEAN region;
- (b) contribute to creating an environment of trust and confidence in the use of e-commerce in the ASEAN region; and
- (c) deepen cooperation among Member States to further develop and intensify the use of e-commerce

- (i) 另一成员国自然人指根据该成员国法律:

(i) 是该成员国的国民或公民; 或 (ii) 在该成员国拥有永久居留权, 前提是該成员国及該人員提供服务所在成员国均承认永久居民, 并在影响服务贸易的措施方面给予各自永久居民与本国国民基本相同的待遇;

- (j) 个人信息指关于已识别或可识别的个人的任何信息, 包括数据; 及

- (k) 贸易管理文件指由成员国签发或管控的表格, 必须由进口商或出口商或其代理人为货物进出口目的填写。

第二条 目标

本协议的目标是:

- (a) 便利东盟地区的跨境电子商务交易; (b) 助力在东盟地区营造电子商务使用中的信任和信心环境; 及 (c) 深化成员国之间的合作, 以进一步发展和加强电子商务的使用